

A preferred purpose of the method and apparatus of the present invention is described below with reference to determining the listener library of a radio station. However, the method and apparatus of the appeal, familiarity, and fatigue for a list of songs comprising the music invention is described below with reference to determining the listener invention.

The method and apparatus for surveying and reporting listener opinion inventive method which is described below.

The scope of the present invention, FIG. 5 represents a flow chart of the provided for illustrative purposes only and are not meant to limit the of a list of songs are described with reference to FIGS. 1-4 which are provided for surveying and reporting listener opinion inventive method which is described below.

demographic profile information. The cited portion of Kelly relied on by the Examiner does not contain any reference to a user database, let alone a user database containing teaching this limitation (see p. 2 of February Office Action). The cited portion of Kelly as *plurality of registered users*. The Examiner cites col. 2, lines 40-67 of Kelly as *includes a user database containing demographic profile information that* these claims. For example, rejected Claim 97 is directed to a computer system *that* examiner do not teach or suggest one or more of the claimed features in each of rejection because the portions of Kelly and Cook cited and relied upon by the 5,913,204 and Cook 6,338,044 patents. Applicant respectfully traverses this Claims 97-141 have been rejected under 35 U.S.C. §103(a) based on the Kelly

Claim Rejections - 35 U.S.C. §103(a)

arguments submitted below is respectfully requested.

Claims 97-141 are currently pending in this application. Reconsideration of the application based on the pending in the Application. Reconsideration of the application based on the been rejected. No claims have been canceled. Therefore, Claims 97-141 are still been rejected.

Claims 97-141 are currently pending in this application. Claims 97-141 have

REMARKS

length. A review of the language in that portion, however, clearly indicates that it of Kelly is basically an entire column and has not been included here because of its opt-in database or a radio station database as required by Claim 97. The cited portion databases. The cited portion of Kelly, however, does not include any reference to an Examiner cites col. 3, ll. 1-54 of Kelly as teaching the required opt-in and radio station *database containing information regarding a plurality of radio stations*. The *containing music and entertainment information*, and *a radio station email addresses for registered users who have chosen to receive emails* system claimed in Claim 97 also requires *an opt-in database containing user* to the Examiner's statements otherwise, are not taught by Kelly. The computer There are also additional claim limitations included in Claim 97 that, contrary reference to a user database as suggested by the Examiner.

The Applicant has reviewed the above-referenced language and can find no market for service where potential listeners are selected is usually determined by the actual geographic listeners are recorded. Listener opinions are selected from which the individual geographic area or geographic market from which the individual residence, music preference, demographic age group, household income and/or racial or ethnic background.

The geographic area or geographic market from which individual listener opinions are recorded. Listener opinions may be selected based on their complicity with specific listener criteria including geographic listener options are recorded. Individual listeners may be selected based on their complicity with specific listener criteria including geographic residence, music preference, demographic age group, household income and/or racial or ethnic background.

Initially, a group of music listeners is selected from which individual listener options are recorded. Listener options are recorded to as "the radio station" (hereinafter collectively referred to as "the radio station").

Information is used to improve the marketability of the music and/or the radio station conducting the research. The survey method may be conducted locally in a single market, regionally, or on a national scale depending on the needs of the radio station or network of stations (hereinafter collectively referred to as "the radio station").

Information is used to determine listener affinity to determine listener appeal, familiarity, and fatigue for a list of songs for any purpose. The resultant information is used to improve the marketability of the music and/or the radio station conducting the research. The survey method may be conducted locally in a single market, regionally, or on a national scale depending on the needs of the radio station or network of stations (hereinafter collectively referred to as "the radio station").

undersigned acknowledged that some of the claim limitations in the rejected claims various claim limitations in the rejected claims were taught or suggested. The on the rejections of Claims 97-141 and pointed out in the cited references where claim limitations required by rejected Claims 97-141. Examiner Thomas elaborated of the Kelly and Cook references did not appear to teach or suggest many of the Cook references. The undersigned also expressed his concern that the cited portions interview, Claims 97-141 were discussed, as well as the teachings of the Kelly and interview with Patent Examiner Vanell Frenel and Supervising Patent Examiner Joseph Thomas relating to the February 10, 2005 Office Action. During that On August 10, 2005, the undersigned attorney participated in a telephone

Telephone Interview

Cook references. Explaining to the examiner how Claims 97-141 are patentable over the Kelly and February 10, 2005 Office Action so that the applicant can submit a response clearly claims. Applicant requests that the patent examiner withdraw the finality of the not teach or suggest at least one of the claimed features in each of the rejected As indicated above, the cited and relied upon portions of Kelly and Cook do

Request to Withdraw the Finality of the February 10, 2005 Office Action

References cited and relied upon by the Examiner. Claims 98-141 include similar claim limitations that are not taught by the in and radio station databases. does not provide support for the Examiner's position that Kelly teaches the use of opt-

from May 10, 2005, to August 10, 2005. The Commissioner is authorized to charge extended the time for responding to the February 10, 2005, Office Action for 3 months Pursuant to 37 C.F.R. § 1.136(a), Applicant petitions the Commissioner to

claims in condition for allowance.

final action, amending Claims 97-141 as necessary in order to try to place those

3. The undersigned would be allowed to file a response to this new non-

might be relevant) supporting any claim rejections included in that action.

identifying portions of the Kelly and Cook references (or any other references that February 10, 2005 Office Action and issue a new non-final office action clearly

2. In response, Examiner Freneel would withdraw the finality of the

some of the claim limitations required by rejected Claims 97-141.

because the cited portions of the Kelly and Cook references did not teach or suggest

Office Action requesting that Examiner Freneel withdraw the finality of that action

1. The undersigned would file a formal response to the February 10, 2005

following:

Examiner Freneel, and Supervising Patent Examiner Thomas agreed to the

At the conclusion of the telephone interview the undersigned attorney,

and Thomas agreed to withdraw the finality of the February 10, 2005 Office Action.

Examiner Thomas during the telephone interview. As a result, Examiners Freneel

an opt-in database with email addresses in Claim 97, was acknowledged by

rejected claims were not taught by the cited references, such as the requirement for

were taught by the cited references. The fact that some claim limitations in the

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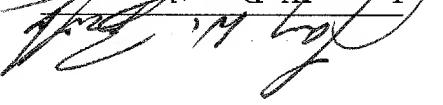
Customer No. 23456

A Professional Corporation

WADDLEY & PATTERSON

Registration No. 16,052

Larry W. Brantley



Respectfully submitted,

the filing of this Response to Deposit Account 23-0035.

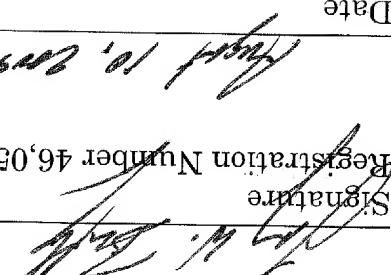
also authorized to charge any deficiency or credit any overpayment associated with

the required petition fee of \$510 to Deposit Account 23-0035. The Commissioner is

Larry W. Brantley

6769 on August 10, 2005.

I hereby certify that this Response To Office Action is being facsimile transmitted to the United States Patent and Trademark Office, Fax No. (571) 273-


Signature _____
Registration Number 46,052
Date 

CERTIFICATE OF TRANSMISSION